

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Michael Harrington,)
)
 Plaintiff,)
)
 v.)
)
 Credence Resource Management, LLC,)
)
 Defendant.)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Credence Resource Management, LLC (“CRM”) by its attorney, hereby removes this action from the 52-4th District Court, State of Michigan, to the United States District Court for the Eastern District of Michigan. In support of this Notice of Removal, CRM states as follows:

1. On February 18, 2016, Plaintiff, Michael Harrington, originally commenced this action by filing a Complaint & Jury Demand against CRM in the 52-4th District Court, State of Michigan, where it is presently captioned *Michael Harrington v. Credence Resources Management, LLC*, Case No.: 16-C00350-GC. No further proceedings before the State court have occurred.

2. In the Complaint & Jury Demand, Plaintiff alleges a statutory cause of action pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”), Michigan Collection Practices Act at M.C.L. § 445.251 et seq. (“MCPA”)

and the Michigan Occupational Code at M.C.L. § 339.901 et seq. (“MOC”). Attached as “Exhibit A” is a copy of the Complaint & Jury Demand.

3. This Court has jurisdiction over Plaintiff’s claim pursuant to 28 U.S.C. §§ 1331 and 1441 in that the claims are founded on a claim or right arising under the laws of the United States. This Court has supplemental jurisdiction over Plaintiff’s joined common law claims, pursuant to 28 U.S.C. § 1441(c).

4. CRM received the Complaint & Jury Demand on or about March 3, 2016. This Notice of Removal is timely, having been filed within thirty (30) days of the date on which CRM received Plaintiff’s Complaint. *See*, 28 U.S.C. § 1446.

5. Notice of this Notice of Removal of this action is being immediately provided to the 52-4th District Court, State of Michigan. *See* “Exhibit B”.

WHEREFORE, Defendant Credence Resource Management, LLC, gives notice that this action is removed from the 52-4th District Court, State of Michigan, to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

COLLINS EINHORN FARRELL, P.C.

/s/Deborah A. Lujan
DEBORAH A. LUJAN (P46990)
Attorney for Credence Resource Management, LLC
4000 Town Center, 9TH Floor
Southfield, MI 48075-1473
(248) 355-4141
deborah.lujan@ceflawyers.com

Dated: March 24, 2016

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2016, a copy of the foregoing **Notice of Removal** was electronically filed in the ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system as described below. Parties may access this filing through the Court's system.

Clerk of the Court
52-4th Judicial District Court
520 W Big Beaver Road
Troy, Michigan 48084

Gary D. Nitzkin, Esq.
Travis Shackelford
MICHIGAN CONSUMER CREDIT LAWYERS
22142 West Nine Mile Road
Southfield, Michigan 48033
Attorneys for Plaintiff

Respectfully submitted,

COLLINS EINHORN FARRELL, P.C.

/s/Deborah A. Lujan
DEBORAH A. LUJAN (P46990)
Attorney for Credence Resource Management, LLC
4000 Town Center, 9TH Floor
Southfield, MI 48075-1473
(248) 355-4141
deborah.lujan@ceflawyers.com

EXHIBIT “A”

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN 52-4th JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 16-C00350 GC
--	------------------------------	---------------------------------

Court address

Court telephone no.

520 W Big Beaver Rd, Troy, MI 48084

JUDGE McGINNIS (248) 528-0400

Plaintiff's name(s), address(es), and telephone no(s).

Michael Harrington
 c/o MICHIGAN CONSUMER CREDIT LAWYERS
 22142 W. Nine Mile Rd.
 Southfield, MI 48033
 (248) 353-2882

v

Defendant's name(s), address(es), and telephone no(s).

Credence Resource Management, LLC
 RA: CSC-Lawyers Incorporating Service
 601 Abbot Road
 East Lansing MI 48823

Plaintiff's attorney, bar no., address, and telephone no.

Gary D. Nitzkin P41155
 MICHIGAN CONSUMER CREDIT LAWYERS
 22142 W. Nine Mile Rd.
 Southfield, MI 48033
 (248) 353-2882

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 2-23-16	This summons expires 5-24-16	Court clerk B. REDMOND
-------------------	---------------------------------	----------------------------------

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*
☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
Family Division Cases
☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

General Civil Cases
☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Troy, MI	Defendant(s) residence (include city, township, or village) East Lansing, MI
Place where action arose or business conducted Troy, MI	

2-15-2016
 Date

Gary D. Nitzkin
 Signature of attorney/plaintiff permission

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE**SUMMONS AND COMPLAINT**

Case No. _____

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE****OR**☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- ☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,
 together with _____

List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- ☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____
 Date

My commission expires: _____ Signature: _____
 Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments

_____ on

Day, date, time

_____ on behalf of _____

Signature

RECEIVED FOR FILING
 2016 FEB 18 A 4:41
 52-4 DISTRICT COURT
 TROY MI

STATE OF MICHIGAN
IN THE 52-4th DISTRICT COURT

MICHAEL HARRINGTON,
Plaintiff,

-vs.-

16-C00350 GC
JUDGE MCGINNIS

CREDENCE RESOURCE MANAGEMENT, LLC.
A Nevada corporation,
Defendant.

GARY D. NITZKIN P41155
TRAVIS SHACKELFORD P68710
MICHIGAN CONSUMER CREDIT LAWYERS
Attorneys for Plaintiff
22142 West Nine Mile Road
Southfield, MI 48033
(248) 353-2882
Fax (248) 353-4840
Email – gary@micreditlawyer.com

52-4 DISTRICT COURT
TROY, MI
2016 FEB 18 A 11:45
RECEIVED FOR FILING

COMPLAINT & JURY DEMAND

Plaintiff, Michael Harrington, through counsel, Michigan Consumer Credit Lawyers, by
Gary Nitzkin states the following claims for relief:

1. This is an action for damages, brought against a debt collector for violating the Fair Debt Collection Practices Act at 15 U.S.C. § 1692 et seq. ("FDCPA"), Michigan Collection Practices Act at M.C.L. § 445.251 et seq. ("MCPA") and the Michigan Occupational Code at M.C.L. § 339.901 et seq. ("MOC").

PARTIES

2. Plaintiff is a natural person residing in City of Troy, Oakland County, Michigan. Mr. Harrington is a "consumer" and "person" as the terms are defined and used in the FDCPA. Plaintiff is also a "consumer," "debtor" and "person" as the terms are defined and or used in the MCPA and MOC.
3. The Defendant to this lawsuit is Credence Resource Management, LLC which is a Nevada corporation that maintains a registered agent in Ingham County, Michigan.

VENUE

4. The transactions and occurrences which give rise to this action occurred in the City of Troy, Oakland County, Michigan.
5. Venue is proper in the 52-4th District Court in Oakland County, Michigan as the actions and occurrences recited herein occurred in the City of Troy, Oakland County, Michigan.
6. The amount in controversy is less than twenty five thousand dollars (\$25,000.00) exclusive of costs, interest and attorney's fees.

GENERAL ALLEGATIONS

7. Defendant is attempting to collect a consumer type debt allegedly owed by Plaintiff to T-Mobile, USA in the amount of \$1,884.89.
8. The last time that Mr. Harrington made a payment on this debt was over ten years ago.
9. On or about February 1, 2016, Defendant sent Mr. Harrington a letter attempting to collect the alleged debt. Defendant alleged that Mr. Harrington owed \$1,884.89 on the alleged debt. Defendant stated, "In an effort to resolve this matter, our client has

authorized our office to accept a payment in the amount of \$1,225.18 as full and final settlement of this matter. This is a saving to you of \$659.71.”

10. Defendant’s offer to settle a debt that is expired by the Statute of Limitations is a violation of the FDCPA as the term “settlement” is used in connection with litigation and there is no litigation pending. Further, the debt is unenforceable.

COUNT I – VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

11. Plaintiff reincorporates the preceding allegations by reference.
12. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
13. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
14. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
15. Defendant's foregoing acts in attempting to collect this alleged debt violated the following provisions of the FDCPA:
- a. 15 U.S.C. §1692e by using any false, deceptive, or misleading representations or means in connection with the collection of any debt. Defendant did this when it offered to settle the alleged debt that is unenforceable.
 - b. 15 U.S.C. §1692e(2)(A) by misrepresenting the character, amount or legal status of any debt.
 - c. 15 U.S.C. §1692f(1) by collecting any amount not permitted by law as the debt is out of statute.

16. Mr. Harrington has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT grants him damages of up to \$25,000 plus costs, interest and attorneys' fees as provided by the Fair Debt Collection Practices Act.

COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE

17. Plaintiff incorporates the preceding allegations by reference.

18. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).

19. Mr. Harrington is a debtor as that term is defined in M.C.L. § 339.901(f).

20. Defendant's foregoing acts in attempting to collect this alleged debt violated the following provisions of the MOC:

- a. MCL §339.915(e) by making an inaccurate, misleading, untrue or deceptive statement or claim in a communication to collect a debt. Defendant did this when it offered to settle an out of statute debt.
- b. MCL §339.915(f)(ii) by misrepresenting the legal rights of the debtor.
- c. MCL §339.915(q) by failing to implement a procedure designed to prevent a violation by an employee.

21. Mr. Harrington has suffered damages as a result of these violations of the Michigan Occupational Code.

22. These violations of the Michigan Occupational Code were willful.

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT grants him damages of up to \$25,000 plus costs, interest and attorneys' fees as provided by the Michigan Occupational Code.

COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT

23. Plaintiff incorporates the preceding allegations by reference.

24. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.

25. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.

26. Defendant's foregoing acts in attempting to collect this debt violated the following provisions of the MCPA:

- a. MCL §445.252(e) by making an inaccurate, misleading, untrue or deceptive statement or claim in a communication to collect a debt. Defendant did this when it offered to settle an out of statute debt.
- b. MCL §445.252 (f)(ii) by misrepresenting the legal rights of the debtor.
- c. MCL §445.252(q) by failing to implement a procedure designed to prevent a violation by an employee.

27. Mr. Harrington has suffered damages as a result of these violations of the MCPA.

28. These violations of the MCPA were willful.

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT grants him damages of up to \$25,000 plus costs, interest and attorneys' fees as provided by the Michigan Collection Practices Act.

Respectfully submitted,



February 12, 2016

GARY D. NITZKIN P41155
TRAVIS SHACKELFORD P68710
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Attorneys for Plaintiff
22142 West Nine Mile Road
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Email – gary@micreditlawyer.com

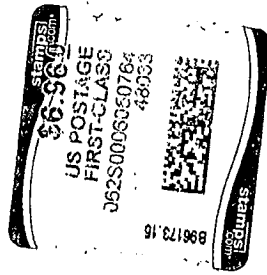
52-4 DISTRICT COURT
TROY, MI
2016 FEB 18 A 11:45
RECEIVED FOR FILING

NITZKIN & ASSOCIATES
22142 W 9 MILE ROAD
SOUTHFIELD, MICHIGAN 48033

CERTIFIED MAIL



7013 1090 0001 4029 0036



Credencé Resource Management, LLC
RA: CSC-Lawyers Incorporating Service
601 Abbot Road
East Lansing MI 48823

48623336501

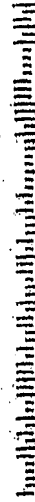


EXHIBIT “B”

**STATE OF MICHIGAN
IN THE 52-4TH DISTRICT COURT**

Michael Harrington,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 16-C00350-GC
)	
Credence Resource Management, LLC,)	
)	
Defendant.)	

**NOTICE OF FILING OF NOTICE OF REMOVAL
TO THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

TO: Clerk of the Court
52-4th Judicial District Court
520 W Big Beaver Road
Troy, Michigan 48084

Gary D. Nitzkin, Esq.
Travis Shackelford
MICHIGAN CONSUMER CREDIT LAWYERS
22142 West Nine Mile Road
Southfield, Michigan 48033
Attorneys for Plaintiff

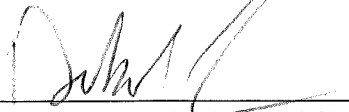
PLEASE TAKE NOTICE that this action has been removed to the United States District Court for the Eastern District of Michigan. Attached hereto as Exhibit "1" is a copy of the Notice of Removal filed in the United States District Court effecting such removal.

PLEASE TAKE FURTHER NOTICE that in accordance with 28 U.S.C. § 1446(d), the 52-4th District Court, State of Michigan, shall proceed no further in this

action unless the action is remanded by the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

COLLINS EINHORN FARRELL, P.C.



DEBORAH A. LUJAN (P46990)
Attorney for Credence Resource Management, LLC
4000 Town Center, 9TH Floor\
Southfield, MI 48075-1473
(248) 355-4141
deborah.lujan@ceflawyers.com

Dated: March 24, 2016

Proof of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on March 24, 2016.

By:

☒ U.S. Mail

☐ Hand Delivered

☐ Facsimile

☐ Electronic filing



Myra Walton-Myers